



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100

Boston, MA 02109-3912

JAN 12 2015

UPS -- Next Day Delivery

Clement J. DeLiso, Jr., President
Pioneer Valley Refrigerated Warehouse, Inc.
d/b/a Pioneer Cold
149 Plainfield Street
Chicopee, MA 01013

c/o:

Mark S. Dreux, Esq.
Arent Fox LLP | Attorneys at Law
1717 K Street, NW
Washington, DC 20036-5342

**Re: Reporting Requirement Pursuant to the Clean Air Act
Response Required Within Three Days of Receipt**

Dear Mr. DeLiso:

As you aware, on September 17, 2013, EPA issued a Notice of Violation and Administrative Order to Pioneer Cold, alleging that the company was operating its ammonia-based refrigeration systems in violation of Section 112(r) of the Clean Air Act ("CAA"). The Order directed Pioneer Cold to correct alleged violations of the CAA's Risk Management Program ("RMP") regulations, set forth at 40 C.F.R. Part 68, associated with two ammonia refrigeration processes at the Facility. The Notice of Violation and Administrative Order was based, in part, on Pioneer Cold's response, in August 2013, to a Reporting Requirement issued by EPA on July 3, 2013. EPA's 2013 Reporting Requirement was designed to resolve conflicting information that Pioneer Cold had given EPA regarding the total amounts of ammonia in the refrigeration processes housed in "Building Five" and "Building Two" at the Facility.

Pioneer Cold submitted its first Risk Management Plan to EPA in 1999, before the Building Five refrigeration process was constructed, and it reported a process containing 13,000 pounds of ammonia. Following the construction of the Building Five process, both of Pioneer Cold's 2004 and 2009 Risk Management Plans indicated that the Facility again had a refrigeration process containing 13,000 pounds of ammonia as well as a second process containing 11,000 pounds. Similarly, chemical inventory reports provided by Pioneer Cold for

the years 2009, 2010, and 2011 indicated that it had more than 10,000 pounds of ammonia in two areas of the Facility.

However, despite many years of reporting two processes containing more than 10,000 pounds of ammonia, at EPA's inspection of the Facility in December 2012, Pioneer Cold representatives indicated that the Building Two process contained fewer than 10,000 pounds of ammonia, rendering it outside the purview of the RMP regulations. The 2013 Reporting Requirement sought clarity on this issue, and in response Pioneer Cold provided to EPA calculations indicating that the Building Five process contained 12,971.7 pounds of ammonia and the Building Two process contained 10,357.5 pounds of ammonia.¹ A company official certified as to the accuracy of this information. Even more recently, Pioneer Cold provided EPA with an Emergency Response Plan updated in February 2014 that indicated that both the Building Five and Building Two processes contained more than 10,000 pounds of ammonia. Similarly, Pioneer Cold's 2014 RMP submission indicated that the Facility included one process containing 13,000 pounds of ammonia and another containing 12,000 pounds. Now, after fifteen years of submissions to the contrary, Pioneer Cold has asserted that it may actually have fewer than 10,000 pounds of ammonia in not just the Building Two process, but the Building Five process as well.

In order to resolve this confusion and resolve our penalty negotiations, EPA seeks certain clarifying information. Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), gives EPA the authority to require a company to submit such information as EPA may reasonably require to determine its compliance with the CAA. Responses to the enclosed list of questions (Attachment 2) must be furnished **within three days** of your receipt of this letter. As you know, EPA has already requested much of this information informally but has not yet received it.

Compliance with this Reporting Requirement is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within three (3) days of receipt of this letter** can result in an enforcement action by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This statute permits EPA to seek the imposition of penalties. This Reporting Requirement is not subject to Office of Management and Budget review under the Paperwork Reduction Act. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information when it is received by EPA, the information may be made available to the public by EPA without further notice to you.

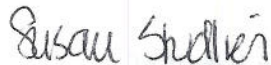
¹ The calculations provided to EPA included a detailed itemization of the ammonia in every pipe, vessel, and air unit in each Process. The pages included headers indicating a date of "8/11/2013" and footers indicating file names of "AMMONIAMAINVOL bldg. 2 2013.xls" and "AMMONIAMAINVOL bldg. 5 2013.xls."

You are required to submit the above-referenced information in writing and by electronic mail to:

Mary Jane O'Donnell, Acting Manager
RCRA, EPCRA and Federal Programs Unit
Office of Environmental Stewardship (Mail Code OES 05-1)
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

As part of your response, please complete the enclosed declaration (Attachment 1) and provide a cover letter answering each question. If you have any questions with regard to this Reporting Requirement, please contact Mary Jane O'Donnell of my staff at (617) 918-1371.

Sincerely,



Susan Studlien, Director
Office of Environmental Stewardship

Enclosures

cc:

Jim Gaffey, EPA
Christine Foot, Esq., EPA

ATTACHMENT 1

Instructions: Complete and Include With Your Response

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
[Title] [Name of Facility]

that I am authorized to respond on behalf of

_____, and
[Name of Facility]

that the foregoing is a complete, true, and correct response.

Executed on _____
[Date]

[Signature]

[Type Name and Title]

ATTACHMENT 2

Guidance on How to Respond. You must submit all responsive documents. Please respond separately to each of the questions, referencing each question by number in your answer. The response must include copies of all records and information that you reference in your response or that you feel are relevant to the information being requested. "Records" and "information" and "document" means the original or an identical and readable copy thereof, and all non-identical copies (whether different from the original by reason of notation made on such copies or otherwise), of any writings or records (**including electronic records**) of any type or description, however created, produced or reproduced.

As part of your response, please complete the enclosed declaration (Attachment 1) and provide a cover letter carefully specifying what documentation is included to answer each question. (If documents requested in response to one item duplicate those requested by another question, submit only one copy of the documentation.) Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to these questions become known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response. Provide a separate numbered response to each numbered paragraph or subparagraph below. **To the extent that you believe that you have answered a question in another section, please refer to the section and answer you have provided.**

QUESTIONS/INFORMATION REQUESTED

1. Please provide all ammonia inventories, and any associated reports, that have been performed for the ammonia refrigeration processes in Building Five and the Building Two of the Pioneer Cold facility. This includes those recently performed by Mr. David Overlan, as well as any others. Indicate who performed the inventories and include any and all supplemental information supporting the calculations. Provide a description of the standards and methodology used and explain whether any inventory calculations were based upon ammonia that was pumped into a receiver and/or other system component(s). If a system's inventory was determined by a pump-down, identify the process used to ensure that all ammonia (liquid and gas), including residuals, was accounted for throughout the entire system. Explain the assumptions associated with all methods for calculating inventory and the protocols for estimating the quantity of any residual ammonia not captured by the pump-down, estimate, and calculations.
2. Please provide all ammonia charging records and delivery receipts covering the life of the ammonia refrigeration processes in Building Five and Building Two of the Pioneer Cold facility. Include the initial ammonia charge(s) for each Process (which may include more than one charge for a given process around the time of start-up), as well as any subsequent additions or removals. If this information is no longer in Pioneer Cold's possession, the company should contact the supplier for the records. Please be sure the information includes, for each addition or removal of ammonia:
 - a. the name of the supplier or contractor;
 - b. the date;
 - c. which process was involved;
 - d. whether it was an addition or removal; and
 - e. the quantity of ammonia.
3. Please provide, in their entirety, all Facility trip reports created by Pioneer Cold's RMP consultant(s) (whether Mr. Larry Aleksandrach or otherwise) from December 2007 through the present. Additionally, provide a copy of all records generated by the consultant and/or facility representatives to follow up the issues identified in these trip reports.